

Death Notices of Government Held Detainees in Syria

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The issue of conflict-related missing persons and detainees remains of serious concern in Syria. In the course of the conflict anti-Government armed groups have subjected individuals to kidnapping, unlawful detention, mistreatment and killings. The precise number of their victims remains unknown. In relation to conflict-related detainees held by the Government of Syria, the precise number is likewise difficult to estimate, although some sources suggest the figure may be 16,000 or more, while others put the figure as substantially higher. In many such cases, families have not been provided with official confirmation by the Government that their relative is in detention. Many families spend years searching for information concerning their loved ones, becoming vulnerable to exploitation by individuals who often take considerable sums of money in return for information. If a person dies while in custody, often no official notification is provided to the families. In other cases notification is provided years after the event, or the notification contains incorrect information, or multiple notifications are provided concerning the same person. Bodies of detainees are rarely returned to their families. If returned, families generally cannot request independent forensic investigation into the death nor question the official cause of death stated in the notification.

To address these issues, it is crucial that the Government identify all persons who may have gone missing as a result of the armed conflict, to undertake all reasonable steps to ascertain their whereabouts and condition, and to communicate this information to their families as appropriate. Persons taken or unlawfully held by anti-Government armed groups should be released immediately without harm and the Government should undertake all reasonable efforts to ensure their safe release and to hold accountable according to law those who may have been responsible.

In relation to persons who are in the custody of the Government of Syria, it is essential that all due process and fair trial standards as guaranteed by international law are respected and protected in relation to them – this includes ensuring that families of detainees are provided, as soon as is reasonably practicable following arrest or detention, reliable and updated information concerning the detainee, including that she or he is in the custody of the Government, the place of detention and the identity of the detaining authority, her or his status or condition, and any charges she or he may be facing. All detainees should be subject to independent judicial oversight to ensure lawfulness of detention. If a detainee dies in custody, there must be a transparent public investigation into the death by an independent judicial authority, and where mistreatment is found to have occurred that may have contributed to the death, the perpetrators must be held accountable according to law and appropriate reparations paid to the family of the victim.

This Digest on Syria is prepared by the Office of the United Nations High Commissioner for Human Rights (OHCHR). It is intended to provide an overview of the impact of armed conflict and violence on civilians, as well as a number of current and possible future IHL and human rights concerns that may arise in relation to it. As OHCHR does not have direct access to Syria (and hence cannot access directly the locations where incidents have taken place), it often relies on remote monitoring via a range of techniques to gain information through reliable networks of sources. OHCHR utilizes as wide a range of sources and types of information as possible. OHCHR gives preference to primary sources, such as testimony of victims, victims' relatives, witnesses, and health personnel. Secondary sources may also be consulted, including but not limited to community elders, religious and civil leaders, local, governorate and central Government departments and officials, UN and other International Organizations operating in Syria, local and international media reports, and civil society organizations (national and international). All sources are analysed for their reliability, credibility and integrity. Attempts are made to crosscheck and verify all information from sources before conclusions are drawn and published. Where OHCHR is not satisfied with the information collected in relation to a particular incident or it fails to meet the standard of proof employed, it will not be reported. The Digest does not seek to highlight all human rights violations and abuses committed in Syria during the month, nor list all documented cases of a particular type. Rather, the Digest focuses on a few key human rights issues which are of particular concern and are often under reported or not receiving sufficient scrutiny.

The Disappeared

The most credible estimates of the number of persons who have gone missing in Syria as a result of the armed conflict ranges from around 60,000 to 80,000 persons. While some are simply “missing” – i.e., they have been displaced or relocated to places unknown, or they have left Syria as refugees, or they have died as a consequence of the violence or of other (natural) causes or accidents and their deaths have not been appropriately notified to the authorities and/or communicated to relatives - thousands are alleged to have disappeared at the hands of anti-Government armed groups. However, the exact number remains almost impossible to estimate. Thousands of others are alleged to have been arrested or detained by Government authorities and/or have been abducted by Government-affiliated militias.

The fate of many such missing persons remains unknown, sometimes for years, exacerbating the pain and anguish of families, friends and relatives who cling to the hope that their missing loved-ones may still be alive.

Conflict- Related Detainees

The precise number of individuals who have been detained in relation to the armed conflict by the Government (as well as cases of individuals who disappeared prior to the armed conflict in Syria) has been extremely difficult to establish. Opposition sources tend to provide figures which are believed to be vastly inflated, making estimation of the true

number exceedingly difficult. In this regard, OHCHR has confirmed instances where persons listed by such groups as having died in Government detention were later located alive and had in fact been released.

As noted, some organisations put the figure of conflict related detainees held by the Government at some 16,000 people - but others claim the figure could be considerably higher.

For many conflict related detainees held by the Government, few of their families have received formal notification acknowledging this fact. In the cases where families have received official acknowledgement, their place of detention or their current status and condition have not been disclosed and few are permitted to have direct contact with their families.

The International Convention for the Protection of All Persons from Enforced Disappearance defines "enforced disappearance" as the arrest, detention, abduction or any other form of deprivation of liberty by agents of the State or by persons or groups of persons acting with the authorization, support or acquiescence of the State, followed by a refusal to acknowledge the deprivation of liberty or by concealment of the fate or whereabouts of the disappeared person, which place such a person outside the protection of the law.

Government officials have frequently refused to provide information to the families about the whereabouts of their relatives after their arrest, or following the transfer from one detention facility to

another. OHCHR has obtained information from 31 families, along with former detainees and Government employees, who claimed they had repeatedly approached Government security agencies operating in Governorates such as Damascus, Aleppo, and Homs in efforts to find information about the fate of relatives believed or known to be in Government custody. Officials rarely responded to such requests, despite the fact that in cases that could reach the hundreds, family members reported witnessing the initial arrest or the arrest was confirmed by reliable sources, or they had been informed previously that their relative had been transferred to the custody of another security agency, which subsequently did not respond to requests for information or denied holding them. In at least thirty cases, the families reported that the only official information provided to them confirming their relative was in Government custody was when they received the formal notification of death (in many cases, several years later) despite the fact that in many instances the date of death was certified to have taken place within a few months of the initial arrest, detention or transfer.

Notifications of Death in Custody

In recent months there has been a marked increase in individuals reporting that they have received formal notification from the Government of Syria of the death of a relative held in detention. While the exact overall numbers as well as details of individual cases remain difficult to confirm, reports collected by OHCHR indicate that there may be some two to

three hundred families who have received such notifications from the Government of Syria since April 2018 – although the exact number may well be much higher.

The reason for such a marked increase in the provision of these formal death notices remains unclear. It is highly unlikely that this is due to a recent increase in deaths in custody as most notifications received by the families concern deaths that are dated to have taken place several years ago - some as far back as 1995. It may be motivated by the desire of the Syrian Government as the conflict draws down to “close the file” on “missing persons” who have died in its detention facilities over the years. It may also be that the Government of Syria has been under pressure from its allies and other members of the international community to account for missing persons alleged to be in its custody. Another factor may well be that thousands of people, who until recently were located in areas outside of Government control (such as Eastern Aleppo city, Eastern Ghouta, and parts of Dar’a, Hama, and Homs Governments), once again are under Government control and are able to access Government institutions to receive information concerning the whereabouts and fate of missing relatives who were in the custody of the Government.

Process of Notification

Since the start of the armed conflict, families of detainees who have died in custody have obtained information on the fate of their relatives through a

variety of channels. In relation to deaths of persons held in detention facilities run by the Ministry of Interior, the reported practice is that the notification of death is passed by the Ministry to the local civilian police who either directly inform the immediate family or have the information passed to them through the office of the local mayor (“*Mukhtar*”) or in some instances through the local municipality. In relation to deaths of detainees held in the custody of military or air force security agencies, the information confirming the death is reportedly provided to the family directly by the military police.

Following the verbal notification, families are requested to come to the local civilian police office, or in the case of persons held in military or air force detention facilities, to the military police office, where they are provided with a formal written notification of the death. Following receipt of this written notification, relatives are then required to go to the “*Nufoos*” office (which can be loosely described as the “civil registry office”), where the individual’s death is officially registered, a death certificate issued, and the death reflected in all relevant civil and personal status documents.

More recently a number of families have reported to OHCHR that they were informed of the death of their relative directly from the *Nufoos* office - particularly in the areas of Muaddamiat al-Sham (Rural Damascus Governorate), various parts of Dar’a Governorate, and some parts of rural Homs and Hama Governorates. These reports are consistent with information received by OHCHR that *Nufoos* offices located in these areas recently received lists of names of persons who had died in custody

To date, no official or uniform “notification process” has been established by the *Nufoos* offices to transmit death notifications formally to the families. Rather, a number of families have reported to OHCHR that they learned of the death of their relative either after they were contacted informally by employees of the *Nufoos* office who happened to see the name on the lists, or while attending the *Nufoos* office to process unrelated paperwork.

“I learned about the death of my husband on 15 July 2018 by chance through the Nufoos office of Homs City where I am originally from. I was at the Nufoos office processing papers related to my son, and was shocked to learn that my husband was registered as dead. He was arrested and taken from our home in Mashtal Hilu in Lattakia Governorate by the Government Political Security on 26 September 2014. My husband was working in Lattakia and his leg was broken at the time of arrest. He was detained at the Political Security detention facility for one month and a half in Lattakia and then transferred to its branch in Damascus City. I tried in vain to obtain information about his whereabouts for a whole year. I paid large amounts of money to various people including Government officials who promised to provide me with information about his whereabouts. I eventually lost track of where he was or whether he was dead or alive. His date of death was listed as 30 March 2015. He was dead all that time and I didn’t know. Why did they not tell me?”

OHCHR interviewed family members of 17 detainees who since April 2018 received official death notices or certificates. The date of death in all cases was indicated as having occurred several years prior - most were dated to the period between 2012 to 2015, although some dated earlier, with one dating back to 1995. In many cases the date of death given on the notification or certificate was within a few weeks or months following the initial arrest or detention.

“Cause of Death”

All of the death notifications or certificates of detainees provided by families to OHCHR indicated that the detainee died from a variety of natural causes, such as heart failure or respiratory problems. Ill-treatment or torture is never given as a cause of death.

The bodies of persons who die in custody are rarely returned to their families. Many families informed OHCHR that they were too afraid to request that the bodies of their relatives be returned. On the rare occasions that bodies were returned to their families, independent forensic examination of the bodies to confirm the cause of death as stated in the official death notice or certificate was not made available. This is despite the fact that in a number of cases, families claimed to OHCHR that the bodies bore suspicious marks that they believe indicated the individual might have been subjected to ill-treatment or torture.

At least thirty families and former detainees interviewed by OHCHR expressed serious concerns in relation to ill-treatment inflicted by Government

officials on detainees who had later died. Many claimed that the individuals concerned were young and healthy, or had no health issues when they were initially detained. While it is impossible to definitively determine the cause of death in each individual case - whether as a result of natural causes, torture, execution, killing, or ill-treatment - without independent forensic examination of the bodies, in many cases the possibility that ill-treatment was a cause of death or a significant factor contributing to the death cannot be ruled out.

“In the period 2014 – 2016, cruel treatment inflicted on conflict-related detainees at Government security detention facilities had escalated. Government forces were losing battles on the ground and the entire system was on the verge of collapsing. Tens of detainees died as a result of torture or deliberate deprivation of access to healthcare. It was a kind of collective punishment. Those who learned about the death of their relatives did so only through insiders or after paying large amounts of money to officials.”

A former detainee interviewed by OHCHR

Families as Victims

The large number of people who have disappeared in Syria as a result of the conflict has left many thousands more people in anguish over the fate of their relatives. Numerous reports of kidnapping, torture and abuse of people by anti-Government

armed groups, and those highlighting allegations of arbitrary arrests and enforced disappearances, along with those alleging the infliction of cruel, inhuman and degrading treatment or torture in Syrian. Government detention facilities – that at times resulted in deaths – heightens the anguish of those families desperate for any information concerning the fate or whereabouts of their loved ones. Some families have waited years to learn of the fate of their relatives and many continue to hope that they are alive and will soon return home.

The anguish and despair of families of missing persons is easily exploitable. OHCHR has a number of reports where people have approached family members of missing persons, claiming to have information on their whereabouts or condition in return for large sums of money or other benefits. In one example, OHCHR interviewed a former detainee who had been held in Sednaya Military Prison near Damascus. He stated that his cell-mate had died as a result of a heart attack in 2011, and the parents were unaware of his death until he was released in 2013 and was able to inform them. The parents were under the impression that their son was still alive, and were continuing to send him money through a Government official who claimed he was in direct contact with him.

The situation is made worse by reports in some cases where families had been informed by the *Nufoos* office that their relative had died, but subsequently learned that the information provided was incorrect, and that their relative was alive and still in detention. Such reports have led countless families clinging to the hope that the official death

notification they have received might be a mistake

“He was only 19 years old when he was arrested by members of the Military Security in January 2014. He was taken away while he was buying himself some clothes in Damascus. I only learnt on 31 July 2018 from the Nufoos office in Damascus that my son had died in 2015, as this was the date on his death certificate. I had been looking for him all these years since a Government official told me one month after his arrest that he was being detained at Military Security Branch 215 and had been tortured for having participated in the fighting in Douma. In 2015, someone called me and said my son was sick and he wanted to buy him medicine. I gave him 200,000 Syrian Pounds and clothes but I never heard back from that man again. Do you think my son is really dead? A lot of people were found alive afterwards, no?”

A mother who kept calling OHCHR asking if the office had any information indicating that her son may still be alive – despite having received an official death certificate.

and that their relative may still be alive somewhere.

Not knowing the fate of a relative unquestionably causes anguish and sorrow, inflicting severe suffering on both the victim and their family, and along with the victim, it may constitute a form of torture and other cruel, inhuman or degrading treatment or punishment.¹ This may particularly be

¹ 1992 Declaration on the Protection of All Persons from Enforced Disappearance, preamble and Article 1; General

the case where the Government has definitive information on the whereabouts and condition of the missing person but refuses to disclose it to the families.

“In cases of gross human rights violations-such as torture, extrajudicial executions and enforced disappearances - serious violations of humanitarian law and other crimes under international law, victims and their relatives are entitled to the truth”.

OHCHR study on the right to truth, 8 February 2006.

Family members have the right to know the fate and of their loved ones and to have the body returned to them to grieve over and to bury, so as to give them the opportunity to move on from their pain and suffering.

International Law

The Syrian State has the obligation to respect and protect and fulfil the human rights of all people present in its territory and subject to its jurisdiction, and to undertake all reasonable efforts to stop human rights violations and abuses that are taking place or to prevent them from occurring. Where violations or abuses of human rights have taken place, it is incumbent on the authorities to conduct effective and transparent investigations and to prosecute, according to law, any person found to

Comment on the Right to the Truth in Relation to Enforced Disappearances, Working Group on Enforced or Involuntary Disappearances, para. 4.

have committed crimes in perpetrating those violations and abuses, and to guarantee effective remedies and reparation to the victims.

Under international humanitarian law parties to an armed conflict must take all feasible measures to account for persons reported missing as a result of the armed conflict and must provide their family members with any information it has on their fate. The International Committee of the Red Cross has further indicated that this rule is motivated by the right of families to know the fate of their missing relatives.² International human rights bodies have on their side, recognized the right to truth in cases of gross violations of human rights- in particular enforced disappearances, extrajudicial executions and torture.³

The UN Working Group on Enforced or Involuntary Disappearance has found that enforced disappearance has devastating effects on the societies, communities, and collectives to which the victim belongs.⁴ Grievances surrounding arbitrary arrest and detention, enforced disappearances, along with the suffering of relatives searching for information on their missing relatives, can act as key conflict drivers.

Where individuals are detained by non-State actors (including anti Government armed groups), the Government of Syria should undertake all reasonable steps to locate such individuals and to

² ICRC, Customary International Humanitarian Law: Volume 1: Rules, rule 117.

³ Study on the right to truth, Report of OHCHR, 8 February 2006. E/CN.4/2006/91, para. 33.

⁴ UN Document E/CN.4/1985/15, para. 291

secure their safe release or if deceased, to locate and identify the bodies, inform the families, identify the perpetrators and hold them accountable according to law.

In relation to individuals whom the Government of Syria has detained (including those detained in relation to the armed conflict), it must fully respect and protect due process and fair trial rights of all such persons as protected by international law binding on Syria. This includes providing updated information to family members, relatives or persons nominated by the detainee on the fact that the individual is detained, his or her whereabouts/place of detention, and his or her status and condition. Violation of such rights may constitute arbitrary detention or enforced disappearance, particularly if the fact of the detention of an individual is not a matter of the public record, when relatives are not informed of the fact, place and reasons of detention, when detainees are kept in undisclosed locations, or when access to persons in detention is not granted to relatives, legal representatives or others with a legitimate interest in the individual, such as the International Committee of the Red Cross (ICRC) pursuant to its mandate and other humanitarian service providers.

While in certain situations, international humanitarian law permits individuals to be detained on security grounds in situations of armed conflict – the grounds and circumstances for such detention should be clearly legislated, and any detention beyond a reasonable time period should be subject to independent judicial oversight. Where evidence is adduced that the individual concerned may have committed crimes (either ordinary crimes or what

are referred to as ‘international crimes’) then the individual should be promptly charged and tried. Irrespective that detainees may be alleged to have committed crimes in connection with the ongoing armed conflict in Syria, all due process and fair trial standards guaranteed by international human rights law must be fully respected and protected in relation to them.

Where there is insufficient evidence of criminal acts substantiating charge and trial, then the individual should be released immediately without harm.

In relation to persons detained by the Government in connection with the armed conflict, the Government of Syria should cooperate with appropriate organisations, such as the International Committee of the Red Cross (ICRC) and other humanitarian service providers, by granting immediately free and unhindered access to all places of detention and to all detainees in order to register them, assess their condition, ensure their access to basic humanitarian services, and to facilitate information or access by family members or relatives on their situation, location, status or condition.

As the violence in many of the major urban areas of Syria continues to subside and people are starting to cautiously look towards the post-conflict phase, there is an urgent need for the Government of Syria to address the file of missing persons as part of a broader reconciliation process. Aside from its obligation to the victims and their relatives to ensure accountability for human rights violations and abuses, allowing Syrian society as a whole to know about past events including arbitrary

detentions, enforced disappearances, and deaths in custody, will act as a vital safeguard against the recurrence of such violations and abuses, and will promote community reconciliation toward a lasting peace in Syria.

For more information on the topics raised or for any further information concerning the human rights situation in Syria, please contact Abdelaziz Abdelaziz, OiC Syria Country Office, at aabdelaziz@ohchr.org.